

Appl. No.: 10/798,164
Amendment Dated: April 30, 2007
Reply to Office Action of November 29, 2006

REMARKS/ARGUMENTS

Applicant notes that Claim 23 was improperly labeled as "withdrawn", an error which is regretted. In any event, by this Amendment Claim 23 has been cancelled, obviating further discussion with respect to that claim.

Applicant acknowledges with appreciation the withdrawal of the objection/rejections of the various claims and acknowledgment of Applicants' claim for priority.

By this Amendment, new Claim 52 has been added. Claim 52 is essentially the same as Claim 51 with the exception that the grouping of A being *inter alia* CHR⁴ has been deleted and the grouping of R⁴ as being "aminocarboxylic acid radical" has been deleted.

Claims 3, 4, 6, 7, 9, 11-13, 17, 23, 32-35, 37-42 and 51 stand rejected as 102(a) as anticipated by or in the alternative obvious in view of DE 19855080. Enclosed herewith is a translation of the priority document, DE 19943668.1. For reasons previously advanced, submission of this translation of the priority document obviates the rejections of any of the claims as based on DE 19855080 either as being anticipated or obvious.

Claims 2-4, 6, 7, 9-13, 17, 23, 32-42 and 51 stand rejected as obvious over DE 19622612 ('612 reference). The rejection is respectfully traversed. The Examiner is correct that the '612 reference discloses a gemini surfactant that partially falls under the gemini surfactant set forth in formula B.III. However, as

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correctly recognized by the Examiner, the '612 reference does not teach a surfactant composition containing a gemini surfactant, two or more co-amphiphiles and the other requisite components of the composition in the specific amounts as recited by the instant claims. However, it is the Examiner's position that it would have been obvious to formulate a composition containing the gemini surfactant in question, two or more amphiphiles and the other components of the composition in the amount recited by the claims since the '612 reference broadly suggests a composition containing a gemini surfactant as well as some other components of the composition. With respect to the co-amphiphiles, the '612 reference mentions polyol fatty acid esters, sugar esters and sorbitan esters, but does not teach to use at least two in one composition. More particularly, the '612 reference contains no teaching or motivation to use the two specific co-amphiphiles set forth in dependent Claim 9.

With all due respect to the Examiner's thorough knowledge of these types of compositions, it is respectfully submitted that the obviousness rejection is based on impermissible hindsight. The composition disclosed in Claim 51 is quite complex both in respect to the number of components or potential components and certain other parameters, i.e., the HLB value of the two co-amphiphiles. Viewing the '612 reference in its best light vis-à-vis as a viable obviating reference, Applicant respectfully submits that the composition of Claim 51 and more specifically of Claim 9, could not be arrived at without using

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Applicants' disclosure as a recipe book. In this regard, Applicant respectfully suggests that the necessary motivation to formulate Applicants' composition with at least two co-amphiphiles is lacking. Indeed, it is respectfully submitted that the only motivation to do that comes from Applicants' disclosure – a foray into forbidden hindsight. It is respectfully submitted that Claims 2-4, 6, 7, 9-13, 17, 23, 32-42 and 51 are patentable over the '612 reference.

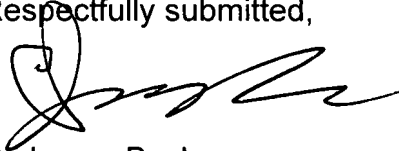
It is also respectfully submitted that newly submitted Claim 52 is unquestionably patentable over the '612 reference since the '612 reference requires the presence of a composition where R^1 and R^2 are aminocarboxylic acids/aminocarboxylic acid radicals and Claim 52 differs from Claim 51 in deleting that limitation.

With respect to Claims 2, 10 and 36, since '080 is no longer a viable reference, Applicant deems it unnecessary to discuss the patentability of those claims in view of that reference.

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In view of the foregoing amendments and remarks, it is respectfully submitted that all remaining claims are in condition for allowance which is hereby earnestly solicited and respectfully requested.

Respectfully submitted,



C. James Bushman
Reg. No. 24,810

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BROWNING BUSHMAN P.C.
5718 Westheimer, Suite 1800
Houston, Texas 77057-5771
Tel.: (713) 266-5593
Fax: (713) 266-5169

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